

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

RODNEY MARCHAND, ) No. CV-06-0152-JPH  
Plaintiff, )  
v. ) ORDER REGARDING PLAINTIFF'S  
GRANT COUNTY, a municipal ) ACCEPTANCE OF CITY  
corporation, et al., ) DEFENDANT'S OFFER OF  
Defendants. ) JUDGMENT

Plaintiff Rodney Marchand ("Plaintiff") was incarcerated at the Airway Heights Correction Center in Spokane County, Washington, at the time of the filing of his first amended complaint and is represented by Breean L. Beggs, Jeffry K. Finer, and Terri D. Sloyer in this civil rights action pursuant to 42 U.S.C. § 1983. (Ct. Rec. 34). This action was filed on May 30, 2006.

On April 17, 2007, Defendant City of Moses Lake ("City Defendant") filed a motion for summary judgment seeking dismissal of all claims against it.<sup>1</sup> (Ct. Rec. 55). Plaintiff filed a timely response in opposition to City Defendant's motion for summary judgment on June 1, 2007. (Ct. Rec. 79). City Defendant filed a reply memorandum on June 7, 2007. (Ct. Rec. 80).

<sup>1</sup>Plaintiff alleges that City Defendant, pursuant to official municipal policy and practice, intentionally, or with deliberate indifference, illegally seized Plaintiff's prosthesis, without a warrant, in violation of Plaintiff's Fourth Amendment rights and deprived Plaintiff of a necessary medical device while he was a pre-trial detainee in violation of Plaintiff's right to be free from cruel and unusual punishment under the Fourteenth Amendment. (Ct. Rec. 79 at 2).

1       On June 25, 2007, Plaintiff filed a motion for partial  
2 summary judgment against City Defendant. (Ct. Rec. 85). City  
3 Defendant did not file a response to Plaintiff's motion for  
4 partial summary judgment prior to the Court's issuance of a stay  
5 on July 11, 2007. (Ct. Rec. 93). On March 18, 2008, the Court  
6 set a new briefing schedule with respect to Plaintiff's pending  
7 motion for partial summary judgment against City Defendant. (Ct.  
8 Rec. 108). Plaintiff's motion for partial summary judgment was  
9 set for hearing, without oral argument, on April 11, 2008. (Ct.  
10 Rec. 108).

11       On March 20, 2008, City Defendant filed an offer of judgment  
12 pursuant to Fed. R. Civ. P. 68.<sup>2</sup> (Ct. Rec. 109). City Defendant  
13 offered to have judgment taken against it for the sum of \$7,000.00  
14 plus reasonable attorney's fees and costs incurred by Plaintiff  
15 for the claims against City Defendant. (*Id.*) Plaintiff, by and  
16 through his attorneys, accepted the offer of judgment made by City  
17 Defendant on March 31, 2008. (Ct. Rec. 110).

18       Based on the foregoing, the Court **ORDERS** as follows:

19       1. City Defendant's motion for summary judgment (**Ct. Rec.**  
20 **55**) and Plaintiff's motion for partial summary judgment against  
21 City Defendant (**Ct. Rec. 85**) are **DENIED** as moot.

22       2. Judgment shall be entered for **PLAINTIFF** and against  
23 Defendant, City of Moses Lake, in the amount of \$7,000.00, plus  
24 reasonable attorney's fees and costs.

25 \_\_\_\_\_  
26       2Pursuant to Fed. R. Civ. P. 68, a party defending against  
27 a claim may serve on an opposing party an offer to allow judgment  
28 on specified terms, with the costs then accrued. If the opposing  
party serves written notice accepting the offer, the clerk must  
then enter judgment. Fed. R. Civ. P. 68(a).

3. The District Court Executive is directed to enter this Order and forward copies to counsel.

**IT IS SO ORDERED.**

DATED this 1<sup>st</sup> day of April, 2008.

*S/James P. Hutton*  
JAMES P. HUTTON  
UNITED STATES MAGISTRATE JUDGE